

NO. 80245-9

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**THE SUPREME COURT  
STATE OF WASHINGTON**

STATE OF WASHINGTON, PETITIONER,

v.

KEVIN LAWRENCE HENDRICKSON, RESPONDENT

Court of Appeals Cause No. 34445-9 & 35060-2  
Appeal from the Superior Court of Pierce County  
The Honorable Judge Frank Cuthbertson

No. 04-1-04088-6

**ANSWER TO PETITION FOR REVIEW**

GERALD A. HORNE  
Prosecuting Attorney

By  
MICHELLE LUNA-GREEN  
Deputy Prosecuting Attorney  
WSB # 27088

930 Tacoma Avenue South  
Room 946  
Tacoma, WA 98402  
PH: (253) 798-7400

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A. IDENTITY OF PETITIONER.

Kevin Lawrence Hendrickson is the petitioner in this matter. He has motioned this court for acceptance of review.

B. COURT OF APPEALS' DECISION.

See Appendix A.

C. STATEMENT OF THE CASE.

Petitioner, KEVIN HENDRICKSON, is restrained pursuant to a Judgment and Sentence (Appendix "B") entered in Pierce County Cause No. 04-1-04088-6, for the offense of identity theft in the second degree (three counts). Petitioner received a sentence of 48 months on all counts, concurrent. (Appendix "B").

On April 18, 2006, the court entered an order dismissing Count 1 (which had resulted in a hung jury at trial) without prejudice. (Appendix C & D). All other counts remained valid. (Appendix B).

Defendant filed a direct appeal, Division II, No. 34445-9, which was consolidated with his person restraint petition, 35060-2-II.

Defendant also filed an "EMERGENCY MOTION FOR RELEASE FROM ILLEGAL CONFINEMENT."

The Court of Appeals considered defendant's direct appeal, statement of additional ground on appeal, and personal restraint petition. In the direct appeal, the court affirmed defendant's convictions on counts 12 and 18, but reversed the conviction on count 16 for ineffective

assistance of counsel. (Appendix A – Opinion at 18). The Court of Appeals also considered his personal restraint petition and held that petitioner was not entitled to relief and dismissed the petition. (Appendix A – Opinion at 17).

The petitioner petitioned this court for review. On April 1, 2008, this court entered an order calling for the state to file an answer to the Petition for Review “regarding the dismissal order issue and respond to the Petitioner’s motion for release.”

D. ARGUMENT WHY REVIEW SHOULD NOT BE ACCEPTED.

1. THIS COURT SHOULD DENY REVIEW  
WHERE THE COURT OF APPEALS DENIED  
DEFENDANT’S PERSONAL RESTRAINT  
PETITION.

The Supreme Court will accept review of a decision of the court of appeals terminating review only if:

- (1) The decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) The decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or
- (3) A significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) The petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b).

Defendant argues that this court should accept review of the Court of Appeals' decision because there is no judgment holding him. He proffers to this court an order of dismissal. Petitioner fails to put forth the entire record to this court. Defendant claims in his motion that his case was dismissed outright. Defendant conveniently omits the actual order of dismissal which shows that only Count I was dismissed without prejudice. (Appendix B). The remaining two counts for which defendant was convicted, and which the Court of Appeals affirmed, remain valid and no emergency relief is warranted.

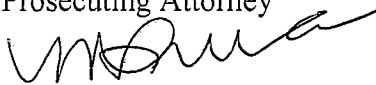
While it appears that the court of appeals' decision does not address the dismissal order issue in the body of its opinion, the opinion still finds that there is no merit to petitioner's personal restraint petition and its order entering dismissal of the petition should stand. If this court feels there is any confusion within the body of the opinion as to this issue, then this court should enter an order directing the court of appeals to clarify its ruling.

F. CONCLUSION.

This court should deny review. The court of appeals properly dismissed petitioner's personal restraint petition.

DATED: April 4, 2008.

GERALD A. HORNE  
Pierce County  
Prosecuting Attorney



MICHELLE LUNA-GREEN  
Deputy Prosecuting Attorney  
WSB # 27088

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

4.4.08   
Date Signature

# **APPENDIX “A”**

*COA Opinion*

FILED  
COURT OF APPEALS  
DIVISION II

07 MAY 30 AM 8:34

STATE OF WASHINGTON

BY

DEPUTY

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**  
**DIVISION II**

STATE OF WASHINGTON

Respondent,

v.

KEVIN LAWRENCE HENDRICKSON,

Appellant.

In re Personal Restraint Petition of

KEVIN LAWRENCE HENDRICKSON,

Petitioner.

No. 34445-9-II  
(consolidated with No. 35060-2-II)

PUBLISHED IN PART OPINION

QUINN-BRINTNALL, J. — Kevin Hendrickson is a tow truck driver who stored financial information, some belonging to clients, in a stolen trailer. He appeals his convictions for three counts of second degree identity theft on grounds of improper searches and arrest, ineffective assistance of counsel, insufficient evidence, and several other issues. Because his conviction for Count 16 rests solely on highly prejudicial hearsay testimony, we reverse his conviction for identity theft against Don Noe, affirm his convictions on Counts 12 and 18 in all other respects, and remand to the trial court for further proceedings.

## FACTS

While driving through Tacoma, Michael Brutsche spotted his grandfather's trailer, which had been stolen months before, in an unfenced used car lot. He and his cousin, Lee Farro, pulled into the lot and called his grandfather and 911. The two waited for Michael Brutsche's grandfather, Leo Brutsche, and Officer William Budinich to arrive.

When Officer Budinich arrived, Michael Brutsche and Farro told him that, while they were waiting, they saw Hendrickson approach the trailer, put a box by it, and try to open a locked door on the trailer. They said that when Hendrickson saw that he was being watched, he dropped a set of keys into the box and left.

Officer Budinich verified that the trailer rightfully belonged to Leo Brutsche and had been stolen. He arrested Hendrickson, took a keychain from Hendrickson's belt loop, and used the keys to open several locks on the trailer. Leo Brutsche demanded that Budinich open the trailer so that he could see if a concrete cutter that was stolen with the trailer was still inside.

Officer Budinich conducted a quick sweep of the trailer's interior to ensure that no people or dangerous conditions, such as a portable methamphetamine laboratory, were present. He noted that there was no safety risk and that Leo Brutsche's concrete cutter was no longer in his trailer. During the cursory search for the cement cutter, Officer Budinich also saw that the trailer contained a box of vehicle identification number (VIN) plates, papers, and a file cabinet. Officer Budinich impounded the trailer and obtained a warrant to search it. Police searched the trailer and found numerous documents containing financial information.

The State charged Hendrickson with first degree possession of stolen property for the trailer and 16 counts of second degree identity theft. Before trial, Hendrickson challenged

Officer Budinich's initial search of the trailer and the search warrant. He also objected to admitting statements he made to police, but the trial court ruled that all were lawful.

At the close of its case, the State dismissed five of the identity theft counts because key witnesses were unavailable. Hendrickson urged the trial court to direct a verdict in his favor on all counts. The trial court dismissed eight of the remaining identity theft counts because the State failed to prove that Hendrickson possessed the financial information for illegal purposes.<sup>1</sup> The trial court then allowed four charges to go to a jury: first degree possession of stolen property (Count 1); possession of Jaime Salazar-Guerrero's identity information (Count 12); possession of Noe's social security card (Count 16); and possession of a forged social security card with the number of an unknown seven-year-old Florida boy and the name of a different person (Count 18).

The jury did not reach a unanimous verdict on the charge of possession of stolen property, Count 1, and the State dismissed that charge without prejudice. But the jury convicted Hendrickson on the three remaining counts of identity theft.

This appeal requires us to review: (1) the effectiveness of Hendrickson's counsel; (2) Hendrickson's arrest; (3) the search warrant; (4) sufficiency of the evidence; (5) issues raised in Hendrickson's statement of additional grounds (SAG);<sup>2</sup> and (6) issues raised in Hendrickson's personal restraint petition (PRP), which we consolidated with his direct appeal. In the published

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<sup>1</sup> Hendrickson was a tow truck driver and several of the alleged victims testified that they were customers, Hendrickson had permission to have their financial information or to clean out their totaled vehicles, and they were not aware that any financial or identity crimes had been committed against them with the information that Hendrickson possessed.

<sup>2</sup> RAP 10.10.

portion of this opinion, we reverse for ineffective assistance of counsel. But we analyze the remaining issues without publication because we resolve those issues by following well-established legal principles that have no precedential value. RCW 2.06.040; *State v. Fitzpatrick*, 5 Wn. App. 661, 669, 491 P.2d 262 (1971), *review denied*, 80 Wn.2d 1003 (1972).

## ANALYSIS

### INEFFECTIVE ASSISTANCE OF COUNSEL

Hendrickson urges that we reverse his conviction for identity theft of Noe's social security card on the ground of ineffective assistance of counsel. Hendrickson's counsel did not object to hearsay testimony by a criminal investigator that Noe lost his card and that no one had permission to use it. This key testimony is inadmissible hearsay and barred under *Crawford*,<sup>3</sup> competent counsel would have objected, and Hendrickson suffered prejudice. Accordingly, we reverse this conviction.

Joe Rogers, a Social Security Administration special agent, testified that he conducts criminal investigations relating to identity theft and misuse of social security cards. He investigated the social security cards "in relationship to the case involving State v. Kevin Hendrickson," apparently at police request. 2 Report of Proceedings (RP) at 67. During trial, Special Agent Rogers testified as follows:

[State]: . . . Can you please tell the jurors whether you had any opportunity to attempt to contact the owner of that card, Don Noe?

A I did.

Q And what did you do then?

A I contacted Mr. Noe and spoke to him on two occasions, primarily to ask about his social security card, whether he ever lost it, a little bit of history about it. Mr. Noe explained to me that he was attending Evergreen State College in the Olympia area and sometime in the Spring of 2004, he wasn't sure of the exact date, he did lose his card. He lost his wallet

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<sup>3</sup> *Crawford v. Washington*, 541 U.S. 36, 59, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004).

- Q        somewhere around the campus and hadn't seen it since. In the fall of 2004, he applied for and received a replacement social security card.
- Q        And did you ask him whether anyone had permission to have his social security card?
- A        Yes, I did.
- Q        And what was his response?
- A        He stated to me that nobody had his permission to have his social security card, possess it.

2 RP at 68-69. Hendrickson's attorney did not object. Hendrickson now claims this failure to object constituted ineffective assistance of counsel.

To prevail on a claim of ineffective assistance of counsel, an appellant must show that (1) counsel's performance was deficient and (2) the deficient performance prejudiced him. *State v. Thomas*, 109 Wn.2d 222, 225, 743 P.2d 816 (1987). Deficient performance occurs when counsel's performance falls below an objective standard of reasonableness. *State v. Stenson*, 132 Wn.2d 668, 705, 940 P.2d 1239 (1997), *cert. denied*, 523 U.S. 1008 (1998). Prejudice occurs when there is a reasonable probability that, but for counsel's deficient performance, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).

Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. ER 801(c). These statements were hearsay and were offered to prove a material fact: that Noe did not consent to another person possessing or using his social security card.

The State asserts that the testimony fits into the business or government records exceptions to the hearsay rule and is admissible. But the State did not introduce a business record or information contained in a public record but instead asked Rogers to testify from memory about a conversation he had during his criminal investigation. Thus, the testimony is clearly hearsay and inadmissible under the rules of evidence.

In this case, admitting Rogers's testimony about Noe's statements violated the confrontation clause. The confrontation clause prohibits the admission of testimonial hearsay unless the defendant has an opportunity to cross-examine the declarant. *State v. Shafer*, 156 Wn.2d 381, 388, 128 P.3d 87, *cert. denied*, 127 S. Ct. 553 (2006) (citing *Crawford v. Washington*, 541 U.S. 36, 68, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004)). A statement is testimonial if a reasonable person in the declarant's position would anticipate that his statement would be used against the accused in investigating or prosecuting a crime. *Shafer*, 156 Wn.2d at 389. Rogers is a government agent who was conducting a criminal investigation when he questioned Noe, so the hearsay was testimonial. And Hendrickson did not have the opportunity to cross-examine Noe because he did not testify. *Crawford* bars this testimony.

Hendrickson's attorney failed to object to this testimony, which was crucial to the State's case because it was the only evidence linking the social security card, Exhibit 1, to the geographic region where Hendrickson lived and was the only evidence that Hendrickson did not have a valid reason to possess the card. We can see no tactical reason for defense counsel's failure to object. And there is a reasonable probability that without this evidence Hendrickson would have been acquitted on this charge. We reverse and remand for retrial of this conviction.<sup>4</sup>

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<sup>4</sup> Hendrickson also frames this issue as one of prosecutorial misconduct for knowingly eliciting inadmissible hearsay testimony. We do not address this claim because we dispose this issue on the ground of ineffective assistance of counsel.

We analyze the remaining issues without publication because we resolve those issues by following well-established legal principles that have no precedential value. RCW 2.06.040; *Fitzpatrick*, 5 Wn. App. at 669. We affirm on those grounds.

A majority of the panel having determined that only the foregoing portion of this opinion will be printed in the Washington Appellate Reports and that the remainder shall be filed for public record pursuant to RCW 2.06.040, it is so ordered.

#### ARREST

Hendrickson argues that Officer Budinich did not have probable cause to arrest him and, therefore, the trial court should have suppressed the evidence uncovered due to his arrest. But Hendrickson mischaracterizes the evidence, which establishes probable cause that Hendrickson possessed stolen property in violation of RCW 9A.56.140(1).

Once a trial court establishes the facts, we review de novo the determination of whether those facts constitute probable cause. *See In re Det. of Petersen*, 145 Wn.2d 789, 799-800, 42 P.3d 952 (2002); *State v. Nusbaum*, 126 Wn. App. 160, 166-67, 107 P.3d 768 (2005). A police officer has authority to arrest a person without a warrant when there is probable cause to believe that the person committed a felony. Former RCW 10.31.100 (2000). “Probable cause exists when the arresting officer is aware of facts or circumstances, based on reasonably trustworthy information, sufficient to cause a reasonable officer to believe a crime has been committed.” *State v. Gaddy*, 152 Wn.2d 64, 70, 93 P.3d 872 (2004) (emphasis omitted).

Hendrickson argues that Officer Budinich arrested him “based solely on the fact that Mr. Hendrickson had been seen walking up to the stolen trailer and placing a box on the ground next to the trailer.” Br. of Appellant at 25. The record belies this claim. The evidence presented at Hendrickson’s suppression hearing established that: (1) Hendrickson walked toward the trailer

with a box and tried to unlock the trailer's side door; (2) when Hendrickson saw that Michael Brutsche and Farro were watching him, he backed away and left the box and key near the trailer, evincing guilty knowledge; (3) part of the trailer's VIN had been scratched off and its licensing tabs were expired; (4) the trailer was chained and locked and located in a different city from where it was stolen; (5) the trailer was quite large and had been expensively customized by its rightful owner, Leo Brutsche; and (6) Officer Budinich confirmed that the trailer was stolen property by checking the police report and comparing the VIN number with Leo Brutsche's vehicle registration.

These facts are sufficient to cause a reasonable officer to believe that Hendrickson knowingly possessed a stolen trailer worth over \$1,500 and withheld or appropriated the trailer for use by a person other than Leo Brutsche. RCW 9A.56.140-.150; *State v. Thomas*, 150 Wn.2d 821, 875, 83 P.3d 970 (2004).

In his SAG, Hendrickson also alleges that his arrest was premised on an erroneous arrest warrant for a crime committed by a man who stole his identity. But Officer Budinich did not discover that arrest warrant until after he properly arrested Hendrickson for possessing stolen property. The trial court did not err in ruling that Budinich lawfully arrested Hendrickson.

#### SEARCH WARRANT

Hendrickson next asserts that the trial court erred by admitting evidence seized by the police under a defective search warrant. In his direct appeal, he contends that the warrant application contained insufficient facts to support a finding of probable cause. And in his SAG, he adds that the warrant application contained false information about his criminal history because an identity thief was arrested and convicted while impersonating Hendrickson.

We review conclusions of law in an order pertaining to evidence suppression de novo. *State v. Johnson*, 128 Wn.2d 431, 443, 909 P.2d 293 (1996). On appeal, Hendrickson challenges only the legal conclusion that probable cause supported the search warrant, so we review that conclusion de novo.

A search warrant may issue only upon a determination of probable cause. *State v. Thein*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999). Probable cause exists if the affidavit in support of the warrant sets forth facts and circumstances sufficient to establish a reasonable inference that the defendant is probably involved in criminal activity and that evidence of the crime can be found at the place to be searched. *Thein*, 138 Wn.2d at 140. Accordingly, “probable cause requires a nexus between criminal activity and the item to be seized, and also a nexus between the item to be seized and the place to be searched.” *Thein*, 138 Wn.2d at 140 (quoting *State v. Goble*, 88 Wn. App. 503, 509, 945 P.2d 263 (1997)).

A. False Information

The search warrant affidavit contains the following information:

It was later revealed at the jail that Hendrickson’s true name is Robert Christensen. Christensen had a warrant for two counts of possession of stolen property.

The affiant checked criminal history on Robert Christensen and found five arrests for possession of stolen property in addition to arrests for theft, forgery[,] taking a motor vehicle, and trafficking in stolen property.

Ex. 2.

In his SAG and PRP, Hendrickson insists that he is not Christensen but is the victim of Christensen’s impersonation of his identity. A court must void a search warrant if the defendant establishes that the supporting affidavit contains false information, critical to the determination of probable cause, when the evidence demonstrates that the false information was submitted

knowingly and intelligently or with reckless disregard for the truth. *State v. Selander*, 65 Wn. App. 134, 138, 827 P.2d 1090 (1992) (citing *Franks v. Delaware*, 438 U.S. 154, 155-56, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978)). But Hendrickson did not present this argument to the trial court, does not support his claim on appeal,<sup>5</sup> and has not demonstrated that Officer Budinich submitted false information “knowingly and intelligently or with reckless disregard for the truth.” *Selander*, 65 Wn. App. at 138.

Even if the police obtained the incorrect criminal history,<sup>6</sup> the mistake was not “critical to the determination of probable cause” and did not affect the warrant’s validity. *Selander*, 65 Wn. App. at 138.

#### B. Probable Cause

Hendrickson also claims that the affidavit did not support a finding of probable cause to search the trailer’s contents. The affidavit requested a search for (1) property belonging to Leo Brutsche; (2) documents that may show that Hendrickson had dominion and control of the trailer; and (3) any other item determined to be stolen property when the warrant was executed. The warrant authorized police to search for these items.

The affidavit contained facts sufficient to support probable cause to issue a search warrant for the trailer. We read the statement of probable cause in support of a search warrant request as a whole, in a commonsense, nontechnical manner, and we resolve all doubts in favor of the warrant’s validity. *State v. Vickers*, 148 Wn.2d 91, 108-09, 59 P.3d 58 (2002). The

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<sup>5</sup> He attached to his PRP an arrest warrant for Christensen and asserted that the warrant proves that he is not Christensen. But standing alone, the document does not support this argument.

<sup>6</sup> Hendrickson admitted during the suppression hearing that he had convictions for forgery, identity theft, and second degree theft.

following facts support probable cause: (1) the trailer was stolen property; (2) Hendrickson put tools by the trailer; (3) Hendrickson first said he did not store things in the trailer, but then admitted that he did; (4) Hendrickson first said he did not have keys to the trailer's locks, but then admitted that he did; (5) some of the keys on Hendrickson's belt loop fit the trailer's locks; (6) when the trailer was stolen, its contents were also stolen; and (7) according to Officer Budinich's best knowledge, Hendrickson had multiple arrests for property crimes, including forgery, theft, taking a motor vehicle without permission, and trafficking in stolen property. These facts support probable cause to believe that Hendrickson may have stored the following items in Leo Brutsche's trailer: (1) Leo Brutsche's property; (2) documents showing that Hendrickson had dominion and control of the trailer; and (3) other stolen property. The warrant was valid.

Further, a search of the trailer was justified even if the police had not obtained a search warrant. The trailer's true owner, Leo Brutsche, consented to the search. Consent is an exception to the warrant requirement. *State v. Hendrickson*, 129 Wn.2d 61, 71, 917 P.2d 563 (1996). And a true owner's consent overcomes the protests of a person who is unlawfully using stolen property to store unlawfully obtained financial and identity information. Moreover, police would have lawfully searched the trailer after impounding it in order to list the contents. A routine inventory search is also a recognized exception to the warrant requirement. *Hendrickson*, 129 Wn.2d at 74. In short, in addition to a valid search warrant, at least two exceptions to the warrant requirement authorized the search. The trial court properly denied Hendrickson's arguments to suppress the lawfully seized evidence.

SUFFICIENCY OF THE EVIDENCE

Hendrickson next argues that the evidence is insufficient to prove that he possessed the identification information “with the intent to commit, or to aid or abet, any crime.” RCW 9.35.020(1). We disagree.

Hendrickson urges us to reverse the trial court’s denial of his motion to dismiss at the close of the State’s case. But after a verdict, we review the sufficiency of evidence supporting that verdict, not the propriety of the denial of the motion to dismiss. *State v. Jackson*, 82 Wn. App. 594, 608, 918 P.2d 945 (1996), *review denied*, 131 Wn.2d 1006 (1997). The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. *State v. Green*, 94 Wn.2d 216, 220-21, 616 P.2d 628 (1980). A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn from it. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff’d*, 95 Wn.2d 385 (1980). Credibility determinations are for the trier of fact and are not subject to review. *Thomas*, 150 Wn.2d at 875.

A person is guilty of identity theft if he knowingly obtains, possesses, uses, or transfers a means of identification or financial information of another person, living or dead, “with the intent to commit, or to aid or abet, any crime.” RCW 9.35.020(1). Specific criminal intent may be inferred from the defendant’s conduct where it is “plainly indicated as a matter of logical probability.” *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980).

Here, the jury could infer intent to commit, aid, or abet a crime with these three financial documents. Count 12 related to a “profile” of Salazar-Guerrero’s financial information. For that count, the State presented Exhibit 4, a tablet of Hendrickson’s hand written notes. One page of Exhibit 4 contained Salazar-Guerrero’s name, address, social security number, wife’s name,

wife's social security number, and wife's birth date.<sup>7</sup> And Salazar-Guerrero testified that his car was almost towed but that he claimed the car before it entered the tow truck operator's possession, thus Hendrickson never had legitimate possession of his financial information, and he testified that someone had unlawfully worked using his social security number. This evidence supports a finding or inference that Hendrickson's intention for possessing the documents was a criminal intent.

Count 18 related to Hendrickson's possession of a false social security card bearing the name "Rodrigo Velizco" but the number belonged to a seven-year-old Florida boy with a different name. Clerk's Papers (CP) at 62. The jury could properly infer criminal intent based on the fact that the card was falsified and could be used to commit social security fraud. The evidence was sufficient to support these convictions.<sup>8</sup>

#### SAG ISSUES

Hendrickson alleges numerous errors in his SAG. None warrants reversal.

Hendrickson first alleges that the evidence was insufficient to support his identity theft convictions, reasoning that because the jury did not convict him of possession of the stolen trailer, there was insufficient evidence that he had dominion and control over the identity items.

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<sup>7</sup> Other pages of Exhibit 4 contain similar "profiles" of other people, including names, birth dates, addresses, approximate height and weight, racial classification, driver's license and state identification numbers, social security numbers, credit card numbers and expiration dates, bank account numbers and bank names, and a telephone company account number.

<sup>8</sup> Hendrickson also argues that the prosecutor committed misconduct by charging him with the counts that the trial court later dismissed on a directed verdict. Assuming, without holding that the charge was improper, the court directed a verdict in Hendrickson's favor and he did not suffer prejudice and cannot prevail on this ground. *See State v. Weber*, 159 Wn.2d 252, 270, 149 P.3d 646 (2006) (ruling that to prove prosecutorial misconduct, the defendant must prove both improper conduct and prejudice).

The jury did not acquit Hendrickson of possession of stolen property but, instead, it failed to decide the issue unanimously. It is unknown whether the jury failed to reach a unanimous decision due to lack of dominion and control or some other reason such as lack of proof that Hendrickson knew the trailer was stolen. *See* RCW 9A.56.140(1). This argument fails.

Second, Hendrickson argues that the police were unlawfully present in the car lot and unlawfully took keys from the box in front of the trailer. But the trial court correctly ruled that Hendrickson had no expectation of privacy in an open lot with cars for public sale on it.

Third, Hendrickson asserts error because a box, chains, keys, and other physical evidence were not entered into evidence during trial. But this physical evidence is not required, and Hendrickson does not show that it would alter the outcome of his case.

Fourth, Hendrickson argues that testimonial evidence was required to prove that he intended to commit a crime with the identity documents. Testimony was not required because the jury may infer this intent from other evidence presented. *Delmarter*, 94 Wn.2d at 638.

Fifth, Hendrickson argues that he suffered malicious prosecution and says, without explanation, that the identity theft statute is void for vagueness. But these arguments do not inform us of the nature and occurrence of alleged errors and thus are unreviewable. RAP 10.10. He also alleges vindictive prosecution because he did not agree to the State's plea bargain. But the record contains no information about a proposed plea bargain and so we have no basis with which to review this claim.

Sixth, Hendrickson contends that the trial court was required to declare a mistrial on all charges when the jury was unable to reach a verdict on the possession of stolen property count or when the trial court granted a directed verdict on the ground that the jury would infer guilt on the remaining charges from evidence relating to the dismissed charges. Seventh, Hendrickson

alleges that the “to convict” instructions were somehow faulty. We note that the instructions track the statute and no error is apparent. The trial court instructed the jury that, “A separate crime is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count.” CP at 51. Juries are presumed to follow a court’s instructions. *State v. Johnson*, 124 Wn.2d 57, 77, 873 P.2d 514 (1994). Because the trial court properly instructed the jury that it could convict Hendrickson for each count based solely on the evidence of those counts, no error occurred.

Last, Hendrickson argues that the prosecutor commented on the evidence by stating that he “possessed” the identifications. But Hendrickson fails to show where in the record these alleged comments occurred and we have not found them. We cannot review this issue because Hendrickson has not told us the nature and occurrence of the alleged errors. RAP 10.10.

#### PRP ISSUES

We also consolidated Hendrickson’s PRP, in which he raises the following issues: (1) insufficient evidence to support the intent element of identity theft; (2) improper failure to call a mistrial on all charges after the jury was unable to reach a verdict on one count and the trial court directed a verdict on several identity theft counts; (3) prosecutorial misconduct, ineffective assistance of counsel, and insufficient evidence because the parties did not admit into evidence the box, keys, and chains; (4) illegal search and seizure of Hendrickson’s personal vehicles; and (5) lack of trial court jurisdiction because insufficient evidence supported his charges. We deny Hendrickson’s petition.

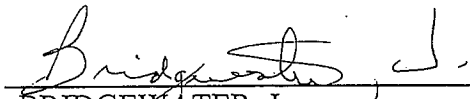
In order to be entitled to relief in a PRP, a petitioner must establish a constitutional error resulting in actual and substantial prejudice or a nonconstitutional error constituting a fundamental defect that inherently results in a complete miscarriage of justice. *In Re Pers. Restraint of Breedlove*, 138 Wn.2d 298, 304 n.1, 979 P.2d 417 (1999) (citing *In Re Pers. Restraint of Cook*, 114 Wn.2d 802, 811, 812, 792 P.2d 506 (1990)). Regardless of whether a petitioner bases his challenges on constitutional or nonconstitutional error, he must support his petition with facts or evidence on which his claims of unlawful restraint are based and not solely on conclusory allegations. *Cook*, 114 Wn.2d at 813-14. He must present evidence that is more than speculation, conjecture, or inadmissible hearsay; and, if his claimed evidence is based on knowledge in the possession of others, he may not simply state what he thinks those others would say but must present their affidavits or other corroborative evidence. *In Re Pers. Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086, *cert. denied*, 506 U.S. 958 (1992).

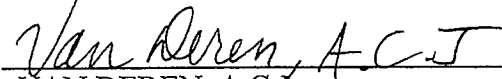
We reviewed the first three allegations through Hendrickson's SAG, and he does not offer additional evidence in his PRP. We are unable to review the fourth issue because Hendrickson does not provide any evidence regarding a search of his personal vehicles. The fifth argument fails because it does not state a cognizable legal argument; a court does not lack jurisdiction simply because the charges are not supported by sufficient evidence to support a conviction. Accordingly, we dismiss Hendrickson's PRP.

We affirm Hendrickson's convictions on Counts 12 and 18, reverse the conviction on Count 16 for ineffective assistance of counsel, and remand.

  
QUINN-BRINTNALL, J.

We concur:

  
BRIDGEWATER, J.

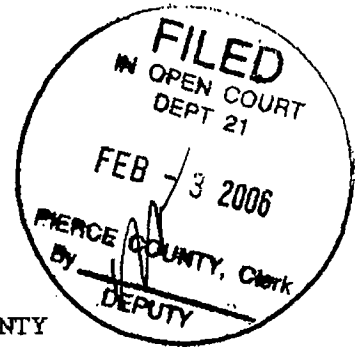
  
VAN DEREN, A.C.J.

## **APPENDIX “B”**

*Judgment and Sentence*

04-1-04088-6

CERTIFIED COPY



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

FEB 06 2006

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04088-6

vs.

JUDGMENT AND SENTENCE AS TO COUNTS

XII, XVI AND XVIII (JS)

KEVIN LAWRENCE HENDRICKSON

Defendant.

☒ Prison☐ Jail One Year or Less☐ First-Time Offender☐ SSOSA☐ DOSA☐ Breaking The Cycle (BTC)

SID: UNKNOWN

DOB: 2/21/1955

## I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

## II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

- 2.1 CURRENT OFFENSE(S): The defendant was found guilty on  
by ☐ plea ☒ jury-verdict ☐ bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
XII	IDENTITY THEFT IN THE SECOND DEGREE (AA39)	9.35.020(1), 9.35.020(2)(b)		8/23/04	042360275
XVI	IDENTITY THEFT IN THE SECOND DEGREE (AA39)	9.35.020(1), 9.35.020(2)(b)		8/23/04	042360275
XVIII	IDENTITY THEFT IN THE SECOND DEGREE (AA39)	9.35.020(1), 9.35.020(2)(b)		8/23/04	042360275

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520,  
(JP) Juvenile present.

04-9-01611-5

04-1-04088-6

as charged in the Second Amended Information

- ☐ Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- ☐ Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

## 2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	ATT. UPCS	4/4/85	Pierce Co., WA	2/28/84	A	NV
2	VUCSA-UPCS	4/3/85	Pierce Co., WA	7/26/84	A	NV
3	VUCSA-UPCS W/INT DEL	4/3/85	Pierce Co., WA	7/26/84	A	NV
4	VUCSA-UPCS W/INT DEL	9/21/87	Pierce Co., WA	11/26/86	A	NV
5	UNL POSS. OF FIREARM	9/21/87	Pierce Co., WA	11/26/86	A	NV
6	PSP 2	8/14/98	King Co., WA	1/16/98	A	NV
7	IDENTITY THEFT	12/11/05	Snohomish Co., WA	1/20/00	A	NV
8	FORGERY (ZX)	12/11/02	Snohomish Co., WA	1/20/00	A	NV
9	VUCSA-UPCS	12/11/02	Snohomish Co., WA	1/20/00	A	NV
10	THEFT 2	12/11/02	Snohomish Co., WA	1/20/00	A	NV
11	FORGERY	11/7/02	Snohomish Co., WA	5/7/01	A	NV

- ☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

## 2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
XII	14	II	43-57 MOS		43-57 MOS	5YRS/ \$10,000
XVI	14	II	43-57 MOS		43-57 MOS	5YRS/ \$10,000
XVIII	14	II	43-57 MOS		43-57 MOS	5YRS/ \$10,000

- 2.4 ☐ **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence ☐ above ☐ below the standard range for Count(s) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

- 2.5 **LEGAL FINANCIAL OBLIGATIONS.** The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW, Chapter 379, Section 22, Laws of 2003.

- ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

04-1-04088-6

[ ] The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [ ] attached [ ] as follows:

### III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 [ ] The court DISMISSES Counts \_\_\_\_\_ [ ] The defendant is found NOT GUILTY of Counts \_\_\_\_\_

### IV. SENTENCE AND ORDER

#### IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

#### JASS CODE

RTN/RJN	\$ _____	Restitution to: _____
	\$ _____	Restitution to: _____
	(Name and Address--address may be withheld and provided confidentially to Clerk's Office).	
PCV	\$ 500.00	Crime Victim assessment
DNA	\$ 100.00	DNA Database Fee
PUB	\$ 1000. <sup>00</sup>	Court-Appointed Attorney Fees and Defense Costs
FRC	\$ 110. <sup>00</sup>	Criminal Filing Fee
FCM	\$ _____	Fine

#### OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ 1,710.<sup>00</sup> TOTAL

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ \_\_\_\_\_ per month commencing, \_\_\_\_\_. RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

#### 4.2 RESTITUTION

[X] The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[ ] shall be set by the prosecutor.

[X] is scheduled for None

04-1-04088-6

[ ] defendant waives any right to be present at any restitution hearing (defendant's initials): \_\_\_\_\_

[ ] RESTITUTION. Order Attached

[X] Restitution ordered above shall be paid jointly and severally with:

NAME of other defendant	CAUSE NUMBER	(Victim name)	(Amount-\$)
RJN			

#### 4.3 COSTS OF INCARCERATION

[ ] In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

#### 4.4 COLLECTION COSTS

The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

#### 4.5 INTEREST

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

#### 4.6 COSTS ON APPEAL

An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

#### 4.7 [ ] HIV TESTING

The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

#### 4.8 [X] DNA TESTING

The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

#### 4.9 NO CONTACT

The defendant shall not have contact with any victims or witnesses (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for \_\_\_\_\_ years (not to exceed the maximum statutory sentence).

[ ] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

#### 4.10 OTHER:


04-1-04088-6

4.11 BOND IS HEREBY EXONERATED

4.12 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>48</u>	months on Count	<u>12</u>	months on Count	
<u>48</u>	months on Count	<u>16</u>	months on Count	
<u>48</u>	months on Count	<u>18</u>	months on Count	

Actual number of months of total confinement ordered is: \_\_\_\_\_

(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

The sentence herein shall run consecutively to all felony sentences in other cause numbers prior to the commission of the crime(s) being sentenced. \_\_\_\_\_

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 11

4.13 [ ] COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count \_\_\_\_\_ for \_\_\_\_\_ months;

Count \_\_\_\_\_ for \_\_\_\_\_ months;

Count \_\_\_\_\_ for \_\_\_\_\_ months;

[ ] COMMUNITY CUSTODY is ordered as follows:

04-1-04088-6

Count \_\_\_\_\_ for a range from: \_\_\_\_\_ to \_\_\_\_\_ Months;  
 Count \_\_\_\_\_ for a range from: \_\_\_\_\_ to \_\_\_\_\_ Months;  
 Count \_\_\_\_\_ for a range from: \_\_\_\_\_ to \_\_\_\_\_ Months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

☐ The defendant shall not consume any alcohol.

☐ Defendant shall have no contact with: \_\_\_\_\_

☐ Defendant shall remain ☐ within ☐ outside of a specified geographical boundary, to wit:

☐ The defendant shall participate in the following crime-related treatment or counseling services: \_\_\_\_\_

☐ The defendant shall undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

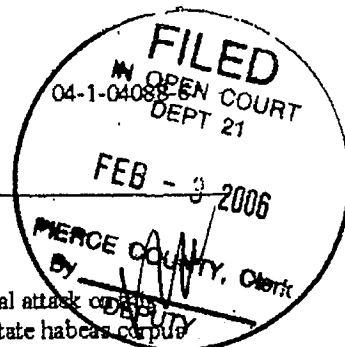
☐ mental health ☐ anger management and fully comply with all recommended treatment.

☐ The defendant shall comply with the following crime-related prohibitions: \_\_\_\_\_

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: \_\_\_\_\_

4.14 ☐ **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.13.

4.15 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: \_\_\_\_\_



## V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.
- 5.4 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.
- 5.5 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.6 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. N/A
- 5.7 **OTHER:** \_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date 2-3-06.

Karen D Platt  
Deputy Prosecuting Attorney  
Print name: Karen D Platt  
WSB # 17290

JUDGE [signature]  
Print name Frank Colibaban  
Attorney for Defendant [signature]  
Print name: JA SCHOENBERGER  
WSB # 33603

[signature]  
Defendant  
Print name: KEVIN L. HENDRICKSON

04-1-04088-6

## CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 04-1-04088-6

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_

Clerk of said County and State, by: \_\_\_\_\_, Deputy Clerk

04-1-04088-6

## IDENTIFICATION OF DEFENDANT

SID No. UNKNOWN  
(If no SID take fingerprint card for State Patrol)

Date of Birth 2/21/1955

FBI No. UNKNOWN

Local ID No. UNKNOWN

PCN No. UNKNOWN

Other

Alias name, SSN, DOB: \_\_\_\_\_

## Race:

☐ Asian/Pacific Islander ☐ Black/African-American ☒ Caucasian

## Ethnicity:

☐ Hispanic

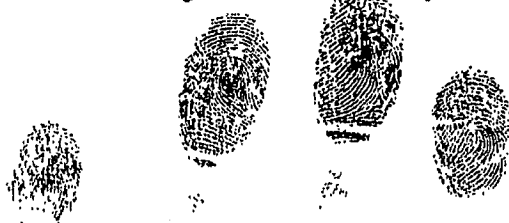
## Sex:

☒ Male☐ Native American ☐ Other: :☒ Non-Hispanic☐ Female

## FINGERPRINTS

Left four fingers taken simultaneously

Left Thumb



Right Thumb

Right four fingers taken simultaneously



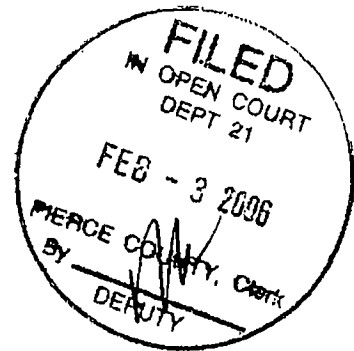
I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, Valerie Meade Dated: 2/3/06

DEFENDANT'S SIGNATURE: KZ#

DEFENDANT'S ADDRESS: \_\_\_\_\_



04-1-04088-6 24509953 JDSWCD 02-06-06



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 04-1-04088-6

FEB 06 2006

vs.

KEVIN LAWRENCE HENDRICKSON,

Defendant.

## WARRANT OF COMMITMENT

- 1) ☐ County Jail  
 2) ☒ Dept. of Corrections  
 3) ☐ Other Custody

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[ ] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

☒ 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

WARRANT OF  
COMMITMENT -3

Office of Prosecuting Attorney  
 946 County-City Building  
 Tacoma, Washington 98402-2171  
 Telephone: (253) 798-7400

04-1-04088-6

- [ ] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 2/3/06

By direction of the Honorable

JUDGE

KEVIN STOCK

CLERK

By:

DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

FEB 06 2006 Mehar Engler  
Date By Deputy

STATE OF WASHINGTON

ss:

County of Pierce

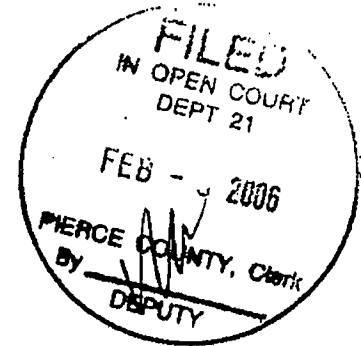
I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

KEVIN STOCK, Clerk

By: \_\_\_\_\_ Deputy

R



STATE OF WASHINGTON, County of Pierce  
ss: I, Kevin Stock, Clerk of the above  
entitled Court, do hereby certify that this  
foregoing instrument is a true and correct  
copy of the original now on file in my office.  
IN WITNESS WHEREOF, I hereunto set my  
hand and the Seal of said Court this  
day of \_\_\_\_\_, 20  
\_\_\_\_\_  
Kevin Stock, Clerk  
By: \_\_\_\_\_ Deputy

APR 04 2006

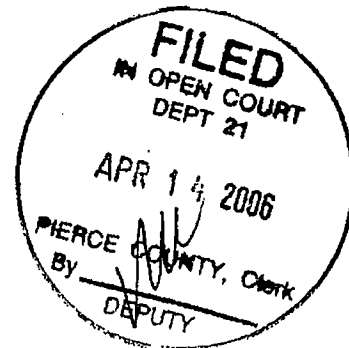
WARRANT OF  
COMMITMENT -4

Office of Prosecuting Attorney  
946 County-City Building  
Tacoma, Washington 98402-2171  
Telephone: (253) 798-7400

## **APPENDIX “C”**

*Order Dismissing Count 1*

## CERTIFIED COPY



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04088-6 APR 18 2006

vs.

KEVIN LAWRENCE HENDRICKSON,

Defendant.

MOTION AND ORDER FOR  
DISMISSAL WITHOUT PREJUDICE

DOB: 02/21/55

SID #: WA10188398

## MOTION

Comes now the plaintiff, herein, by its attorney, GERALD A. HORNE, Prosecuting Attorney for Pierce County, and moves the court for an order dismissing Count I without prejudice the above entitled action, on the grounds and for the reason that the state anticipates that some counts will be retired after appeal and this count can be refiled at the same time.

DATED: this 14th day of April, 2006

*none pro tunc to  
March 8-2006*

GERALD A. HORNE  
Pierce County Prosecuting Attorney  
by: Karen D. Platt

KAREN D. PLATT  
Deputy Prosecuting Attorney  
WSB#: 17290

MOTION AND ORDER FOR  
DISMISSAL -1  
jsdismiss.dot

Office of Prosecuting Attorney  
946 County-City Building  
Tacoma, Washington 98402-2171  
Office of the Prosecuting Attorney  
930 Tacoma Avenue South, Room 946  
Tacoma, Washington 98402-2171  
Main Office: (253) 798-7400

04-1-04088-6

## ORDER

The above entitled matter having come on regularly for hearing on motion of GERALD A. HORNE, Prosecuting Attorney, and the Court being fully advised in the premises, it is hereby;

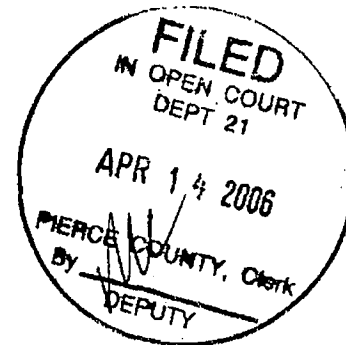
ORDERED that Count I of the above entitled action be and same is hereby dismissed *w. ghost*  
~~without prejudice, bail is hereby exonerated.~~

DATED the 14<sup>th</sup> day of April, 2006.

*Nunc pro tunc to 3-8-06*

*Frank Culbertson*  
 JUDGE

kdp



STATE OF WASHINGTON, County of Pierce  
 ss: I, Kevin Stock, Clerk of the above  
 entitled Court, do hereby certify that this  
 foregoing instrument is a true and correct  
 copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my  
 hand and the Seal of said Court this APR 04 2006  
 day of April, 2006  
 By Kevin Stock, Clerk Deputy

APR 04 2006

MOTION AND ORDER FOR  
 DISMISSAL -2  
 jsdismissal.dot

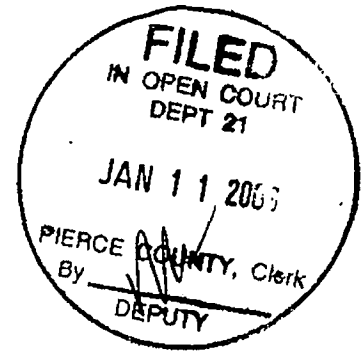
Office of Prosecuting Attorney  
 946 County-City Building  
 Tacoma, Washington 98402-2171  
 Office of the Prosecutors  
 930 Tacoma Avenue South, Room 946  
 Tacoma, Washington 98402-2171  
 Main Office: (253) 798-7400

## **APPENDIX “D”**

*Verdict Forms*



CERTIFIED COPY



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04088-6

vs.

KEVIN HENDRICKSON

VERDICT FORM A

Defendant.

We, the jury, find the defendant \_\_\_\_\_ (Not Guilty or Guilty) of the  
crime of Possessing Stolen Property in the First Degree as charged in Count I.

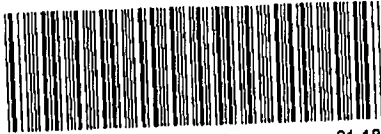
\_\_\_\_\_  
PRESIDING JUROR

STATE OF WASHINGTON, County of Pierce  
ss: I, Kevin Stock, Clerk of the above  
entitled Court, do hereby certify that this  
foregoing instrument is a true and correct  
copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my  
hand and the Seal of said Court this 4

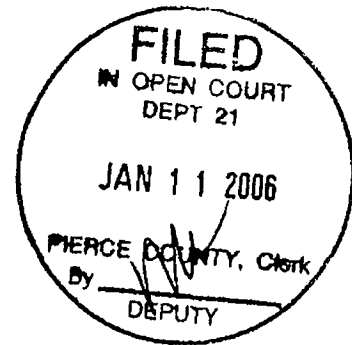
day of \_\_\_\_\_, 2008  
Kevin Stock, Clerk  
By \_\_\_\_\_ Deputy

ORIGINAL



04-1-04088-6 24401500 VRD 01-18-06

CERTIFIED COPY



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04088-6

vs.

KEVIN HENDRICKSON

VERDICT FORM B

Defendant.

We, the jury, find the defendant Guilty (Not Guilty or Guilty) of the  
crime of IDENTITY THEFT IN THE SECOND DEGREE as charged in Count XII.

Mark Greenlund  
PRESIDING JUROR

STATE OF WASHINGTON, County of Pierce  
ss: I, Kevin Stock, Clerk of the above  
entitled Court, do hereby certify that this  
foregoing instrument is a true and correct  
copy of the original now on file in my office.  
IN WITNESS WHEREOF, I hereunto set my  
hand and the Seal of said Court this

day of April, 20 04  
Kevin Stock, Clerk  
Deputy

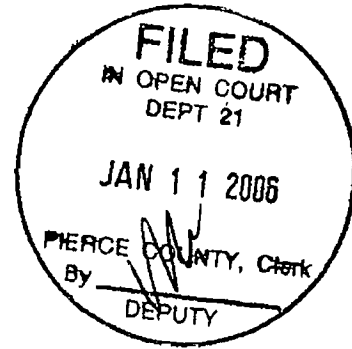
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## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04088-6

vs.

KEVIN HENDRICKSON

VERDICT FORM D

Defendant.

We, the jury, find the defendant Guilty (Not Guilty or Guilty) of the  
crime of IDENTITY THEFT IN THE SECOND DEGREE as charged in Count XVIII.

Mark Greenland  
PRESIDING JUROR

STATE OF WASHINGTON, County of Pierce  
ss: I, Kevin Stock, Clerk of the above  
entitled Court, do hereby certify that this  
foregoing instrument is a true and correct  
copy of the original now on file in my office.  
IN WITNESS WHEREOF, I hereunto set my  
hand and the Seal of said Court this

day of  
Kevin Stock, Clerk  
By

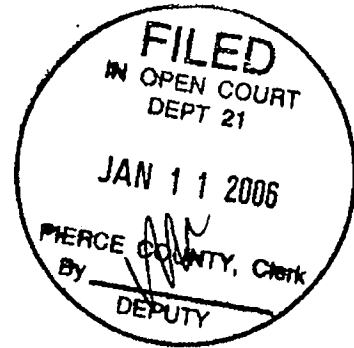
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04-1-04088-6 24401599 VRD 01-18-06

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## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 04-1-04088-6

vs.

KEVIN HENDRICKSON

VERDICT FORM C

Defendant.

We, the jury, find the defendant Guilty (Not Guilty or Guilty) of the  
 crime of IDENTITY THEFT IN THE SECOND DEGREE as charged in Count XVI.

Mark Greenland  
 PRESIDING JUROR

STATE OF WASHINGTON, County of Pierce  
 ss: I, Kevin Stock, Clerk of the above  
 entitled Court, do hereby certify that this  
 foregoing instrument is a true and correct  
 copy of the original now on file in my office.  
 IN WITNESS WHEREOF, I hereunto set my  
 hand and the Seal of said Court this  
 day of April, 2006

Kevin Stock, Clerk

Deputy

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